

REMARKS

Claims 11-36 are now pending. Claims 1-10 are canceled; claims 11-16 and 18 are amended; and claims 20-36 are added herein.

Non-elected claims 1-10 have been canceled in favor of new claims 31-36. It is respectfully submitted that claims 31-36 should be considered in the present application since they are process claims that depend on an allowable product claim.

Claims 11-14 and 16 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 15-18 of U.S. Application No. 10/099,943 filed March 19, 2002 (hereinafter "the 943 application"). It is respectfully submitted that this is merely a provisional rejection since the 943 application has not issued as a patent. Applicants will submit a response to this provisional rejection if a patent issues in the 943 application. In the meantime, it is respectfully submitted that no response to the provisional rejection is required.

Claims 11-14 are rejected under 35 U.S.C. §102(e) over U.S. Publication No. 2003/0111638 A1 to Fahy. Applicants respectfully traverse the rejection.

Claim 11 has been amended to recite that the at least one cyclohexanediol compound is a 1,4-cyclohexanediol compound. It is respectfully submitted that Fahy does not teach a cryopreservation composition comprising at least one 1,4-cyclohexanediol compound.

For at least this reason, Fahy does not teach each and every feature of claim 11. Claims 12-14 depend from claim 11. Therefore, the rejections of claims 11-14 under 35 U.S.C. §102(e) should be reconsidered and withdrawn.

Applicants appreciate the indication that claims 15 and 17-19 would be allowable if rewritten in independent form by incorporating all of the features of their base claim. Claims 15 and 18, as well as claim 16, which has merely been rejected under a provisional double patenting rejection, have been amended to be in independent form. Although claims 16 and 18 have not been amended to incorporate all of the features of their base claim, it is respectfully submitted that Fahy does not teach or suggest all of the features of claims 16

and 18, respectively. Thus, Fahy does not teach the inventions of claims 15, 16 and 18. Claims 17 and 19 depend from independent claims 16 and 18, respectively. Thus, it is respectfully submitted that claims 15-19 are in condition for allowance.

Claims 20-36 have been added to further define the invention. Claims 20-28 and 31-35 depend on one of claims 15, 16 and 18, which have made independent herein. It is respectfully submitted that new claims 20-28 and 31-35 are patentable for at least the reasons discussed above with regard to claims 15, 16 and 18.

Claim 29 is similar in scope to original claim 14. However, DMSO and formamide have been deleted from the list of additional cryoprotectants. Fahy does not teach a composition according to claim 29 or claims 30 or 36, which depend on claim 29.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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